

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE SUBOXONE (BUPRENORPHINE
HYDROCHLORIDE AND NALOXONE)
ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:

End Payor Plaintiff Actions

MDL NO. 2445

Master File No. 2:13-MD-2445-MSG

**UNOPPOSED MOTION TO AMEND LONG FORM NOTICE AND ORDER
GRANTING PRELIMINARY APPROVAL OF END PAYOR SETTLEMENT AND FOR
RELATED RELIEF *NUNC PRO TUNC* AUGUST 21, 2023**

End Payor Plaintiffs (“EPPs”) hereby move the Court for an Order approving amendments to the long form notice (“Notice”) and order granting preliminary approval of EPP settlement and additional relief (“Order”), entered on August 21, 2023 (ECF Nos. 930-6 and 932, respectively), to remedy inconsistencies between the Notice and Order regarding the anticipated privacy concerns of consumer members of the End Payor Class who purchased Suboxone, and to clarify instructions in the Notice regarding proof of membership in the End Payor Class when a Third Party Payor seeks exclusion therefrom. EPPs seek entry of the amended Order (“Amended Order”) *nunc pro tunc* August 21, 2023. In support of their motion, EPPs state that Defendant has agreed to the relief requested and, in addition, state as follows:

1. As initially entered, the Court’s August 21, 2023, Order requires objectors to file their objections and send them to counsel. ECF No. 932 at 9-10. The form of order submitted to the Court by End Payor Plaintiffs and ultimately entered inadvertently did not provide a mechanism for a consumer concerned with privacy issues to maintain anonymity while advancing

their objection. In contrast, the submitted and approved Notice has an option for objecting consumers with privacy concerns to send the objection to the Settlement Administrator, who will redact identifying information and file the objection under seal while sending redacted versions to counsel. *See* ECF No. 930-6 at 9. EPPs seek to amend the Order and the Notice to resolve these inconsistencies and make it clear that confidentiality is to be preserved for consumers throughout the objection process.

2. In addition, upon further reflection, EPPs believe consumers opting out or making claims against the Net Settlement Fund likely have the same interest in preserving confidentiality as those objecting to the Settlement. EPPs note that such concerns arose recently in connection with a settlement involving HIV drugs in *Staley v. Gilead Sciences, Inc.*, Case No. 19-cv-02573 (N.D. Cal.). A consumer there objected to a partial settlement on the grounds that requiring the disclosure of identifying information would discourage objections, opt-outs, and claims. *See e.g., Staley*, ECF No. 870, a copy of which is attached as Exhibit C.

3. Because similar concerns may arise here, EPPs respectfully submit that the proposed amendments to the Notice and Order are necessary to make expressly clear that consumer identities will not be made public during any part of the claim, exclusion, or objection process without the consumer's consent.

4. EPPs also ask the Court to amend the Order and approve an amended Notice to clarify instructions regarding the need for End Payor Class members seeking exclusion to demonstrate their membership in the End Payor Class. That requirement applies solely to Third Party Payors, not consumers, for purposes of the *In Camera* Supplement to Settlement Agreement.

5. Because notice has not yet issued pursuant to the Court's initial Order, the

schedule set forth in the Order is unaffected by the proposed amendments. EPPs therefore request that the Court enter its Amended Order *nunc pro tunc* August 21, 2023.

6. Redlined versions of the Notice and Order reflecting the proposed amendments to the currently approved Notice are attached as Exhibits A and B, respectfully. Clean copies of the proposals are attached as Exhibits C and D, respectively.

Dated: August 27, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2023, a true and correct copy of the foregoing document was electronically filed, will be available for viewing and downloading from the Court's ECF system and will be served by CM/ECF upon all counsel of record.

s/ Kenneth A. Wexler